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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/788,800

02/27/2004

Jeffrey D. Chassee

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02/13/2006

WOOD, PHILLIPS, KATZ, CLARK & MORTIMER
500 W. MADISON STREET
SUITE 3800
CHICAGO, IL 60661

EXAMINER

JACKSON, ANDRE L

ART UNIT

PAPER NUMBER

3677

DATE MAILED: 02/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/788,800

Applicant(s)

CHASSEE, JEFFREY D.

Examiner

Andre' L. Jackson

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13, 15-33 and 35-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13, 15-33 and 35-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-13, 15, 18-22, 24-28 and 40-43 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 3,543,326 to Rohrberg et al. Rohrberg et al (Figs. 3-3a) discloses a carpet clamp comprising;

a support having an upwardly facing surface, the carpet clamp on the support defining;
a horizontal wall (90); an upright wall (102) projecting upwardly and orthogonally away from the horizontal wall and having first and second oppositely facing surfaces; and a cap (92) on the upright wall and having first and second free ends, the cap, horizontal wall and first surface on the upright wall cooperatively defining a U-shaped first receptacle opening in one horizontal direction, the cap, second surface on the upright wall and upwardly facing surface on the support cooperatively defining a U-shaped second receptacle opening oppositely to the one horizontal direction, a first layer (22) placed against the upwardly facing support surface and having a first edge portion that nests in the U-shaped first receptacle, and a second layer (20) placed against the upwardly facing surface and having a second edge portion that nests in the U-shaped second receptacle, wherein the first layer comprises a flexible or rigid material and the second layer comprises a rigid or flexible material, wherein the cap has a first downwardly facing surface (left of upright wall) and the first downwardly facing surface and the first surface

on the upright wall meet at a line, wherein the cap has a second downwardly facing surface (right of upright wall) at the second downwardly facing surface and the second surface on the upright wall meet at a radiused surface portion, wherein the cap has a first portion (94) that projects a first distance from the upright wall in one horizontal direction to the first free end and bounds the first receptacle and a second portion (100) that projects a second distance from the upright wall oppositely to the one horizontal direction, and bounds the second receptacle, wherein the first distance is substantially greater than the second distance (Fig. 3a), and wherein the upright wall and cap are substantially rigid and rigidly interconnected so that the upright wall and cap have a substantially fixed relative orientation.

As to claims 10-12 and 18-22 as seen in Fig. 2, the cap includes a first rounded-end portion that projects a first distance from the upright wall and a second rounded-end portion that projects a second distance from the upright wall opposite one another, the first and second portions further define downward facing surfaces, where the first and second distances are different. The horizontal wall defines oppositely facing flat surfaces respectively within first and second reference planes and is reconfigurable within a space between the first and second reference planes because of its separable connection with the cap, where the horizontal wall includes tack prongs (64) on an upward flat surface thereof. At the rounded-end portion of the second portion of the cap, a terminal portion (96) is disposed at angle less than 25 degrees.

As to claims 8, 9 and 13, the material of the clamp cover is unitary piece as seen in Fig. 3 of metal or non-metal, non-metal material formed of plastic material by an extrusion process.

As to claims 41-43, the first portion of the cap that projects a first distance or length of the first surface is flat and displaced at an angle, while the second portion of the cap the projects

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a second distance or length of the second surface is substantially flat and substantially horizontally oriented.

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 29-33 and 35-39 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 2,980,943 to Barnes et al. Barnes et al (Fig. 2) discloses a single-piece joint cover or strip mounted on a support having an upwardly facing surface, the cover or strip defining;

a horizontal wall (31); an upright wall (32) projecting angularly and upwardly away from the horizontal wall and having first and second oppositely facing surfaces; and a cap (33) on the upright wall, the cap, horizontal wall and first surface on the upright wall cooperatively defining a U-shaped first receptacle opening in one horizontal direction, the cap, second surface on the upright wall and upwardly facing surface on the support cooperatively defining a U-shaped second receptacle opening oppositely to the one horizontal direction, a first layer (28) placed against the upwardly facing support surface and having a first edge portion that nests in the U-shaped first receptacle, and a second layer (25) placed against the upwardly facing surface and having a second edge portion that nests in the U-shaped second receptacle, wherein the first layer comprises a flexible or rigid material and the second layer comprises a rigid or flexible material and wherein the upright wall and cap are substantially rigid and rigidly interconnected so that the upright wall and cap have a substantially fixed relative orientation, wherein the horizontal wall has oppositely facing flat surfaces respectively within first and second reference planes and the horizontal wall is weakened so that the horizontal wall is reconfigurable within a space between the first and second reference planes.

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As to claims 33-35 as seen in Fig. 2, the cap includes a first rounded-end portion (34a) that projects a first distance from the upright wall and a second rounded-end portion (34b) that projects a second distance from the upright wall opposite one another, the first and second portions further define downward facing surfaces, where the first and second distances are different.

The horizontal wall defines oppositely facing flat surfaces respectively within first and second reference planes and is reconfigurable within a space between the first and second reference planes, where the horizontal wall includes tack prongs (36a) on an upward flat surface thereof. At the rounded-end portion (34a), a terminal portion is disposed at angle less than 25 degrees.

As to claims 31, 32 and 36, the material of the one-piece cover or strip is of metal or non-metal, non-metal material formed by extrusion process (col. 6, lines 17-26).

As to claims 38 and 39, the thickness of the one-piece cover or strip is formed in the range of .03-.08 inches (col. 6, lines 65-68).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16, 17, 23 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rohrberg et al. Rohrberg et al discloses that the dimensions of the carpet clamp are minimal but Rohrberg does not disclose the specific range of thicknesses of the carpet clamp as claimed by

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applicant. It would have been obvious to one having ordinary skill in the art at the time of applicant's invention was made to modify the carpet clamp of Rohrberg to include the range of thickness as claimed, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. Further, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention was made to modify the carpet clamp of Rohrberg to include the angle range of a portion of the cap as claimed, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art as well. *In re Aller*, 105 USPQ 233.

Response to Applicant's Arguments

Applicant's arguments filed in the Amendment of November 21, 2005, with respect to the rejection of claims 1-39 over Barnes et al have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of applicant's amendment to the claims, thus, #3,543,326 to Rohrberg et al has been applied to meet the limitations of applicant's claims. Further, Barnes et al is used to meet the amended limitations of applicant's claims as well. Accordingly, claims 1-13, 15-33 and 35-43 are found to be unpatentable over the prior art made of record.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' L. Jackson whose telephone number is (571) 272-7067. The examiner can normally be reached on Mon. - Fri. (9:30 am - 6 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

André L. Jackson
Patent Examiner
AU 3677

ALJ


ROBERT J. SANDY
PRIMARY EXAMINER